

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

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MAY - 5 2010

PATENT INFRINGEMENT AND RACKETEER INFLUENCE & CORRUPT ORGANIZATION (RICO)

AT 8:30 \_\_\_\_\_ M  
WILLIAM T. WALSH, CLERK

George Pieczenik

Plaintiff

v.

AstellasPharma,Inc., Canon,U.S.A, Inc., Taiho Pharma  
U.S.A., Inc., Dainippon Sumitomo Pharma America  
Holdings, Inc., Dainippon Sumitomo Pharma America, Inc.,  
Kyowa Hakko Kirin America, Inc., Kyowa Hakko Kirin  
Pharma, Inc., Medarex, Inc., Shionogi Pharma Sales, Inc., ,  
Mitsubishi Tanabe Pharma America, Inc., Mitsubishi  
Tanabe Pharma Holdings America, Inc., Mitsubishi Tanabe  
Pharma Development America, Inc., Chugai Pharma  
USA,LLC Corporation, Daiichi Sankyo, Inc., Shionogi  
USA Holdings, Inc., Shionogi USA, Inc., Shionogi  
Pharma, Inc.,John Does 1 through 61.

CIVIL ACTION NO:

COMPLAINT

Defendants

COMPLAINT FOR PATENT INFRINGEMENT AND RACKETEER INFLUENCE & CORRUPT ORGANIZATION (RICO) AND  
JURY DEMAND

For its complaint herein, Plaintiff alleges as follows:

THE PARTIES

1. Plaintiff, George Pieczenik ("Pieczenik") is a New Jersey resident, residing at 129 Kingwood-Locktown Rd, Stockton, N.J. 08559.
2. Upon information and belief, Defendant Astellas Pharma,Inc. is a corporation incorporated under the laws of Indiana and has designated the Corporation Service Company to receive process of service at 830 Bear Tavern Road, West Trenton, NJ 08628. Astellas Pharma,Inc.has a Main business address listed as Three Parkway North, Deerfield,IL. 60015. Its NJ Business ID number is 0100943189.
3. Upon information and belief, Defendant Canon U.S.A.,Inc.is a corporation incorporated under the laws of New York and has designated the Corporation Trust Company to receive process of service at 820 Bear Tavern Road, West Trenton, NJ 08628 and has a principle business address at 100 Jamesburg Rd, Jamesburg, NJ 8831. It has a NJ business ID 0100448406.
4. Upon information and belief, Defendant TaihoPharmaU.S.A.,Inc. is a corporation incorporated under the laws of Delaware and has designated the Corporation Trust Company to receive process of service at 820 Bear Tavern Road, West Trenton, NJ 08628 and has a Main Business Address at 6 West Belt Rd. Wayne, N. J. 07470 and a principal and main business address at 202 Carnegie Center,Princeton,NJ08. It's New Jersey Business 540. It has an ID Number is 01000886192.

5. Upon information and belief, Defendant Dainippon Sumitomo Pharma America Holdings, Inc. is a corporation incorporated under the laws of Delaware and has designated the Corporation Service Company to receive process of service at business address at 830 Bear Tavern Road, West Trenton, NJ 08628. It has a New Jersey Business Id Number 0101002558
6. Upon information and belief, Defendant Dainippon Sumitomo Pharma America, Inc. is a corporation incorporated under the laws of Delaware and has designated Prentice Hall Corp. System to receive process of service at 830 Bear Tavern Rd., West Trenton, N.J. 08628. It has a main and principal business address at One Bridge Plaza Suite 510, Fort Lee, N.J. 07024. It has a New Jersey Business ID 0100539885.
7. Upon information and belief, Defendant Kyowa Hakko Kirin America, Inc. is a corporation incorporated under the laws of Delaware and has designated the Corporation Service Company to receive process of service at 830 Bear Tavern Road, West Trenton, N.J. 08628. It has a main and principal business address at 212 Carnegie Center, Inc. Suite 101, Princeton, N.J. 08540. It has a New Jersey Business Id Number: 0100861478.
8. Upon information and belief, Defendant Kyowa Hakko Kirin Pharma, Inc. is a corporation incorporated under the laws of New York and has designated the Wataru Muraya to receive process of service at 212 Carnegie Center Suite, 101, Princeton, N.J. 08540. It has a Main Business Address at 212 Carnegie Center Suite, 101, Princeton, N.J. 08540. It has a New Jersey Business ID Number: 0100772902.
9. Upon information and belief, Defendant Medarex, Inc. is a corporation incorporated under the laws of New Jersey and has designated the Corporation Trust Company to receive process of service at 820 Bear Tavern Road, West Trenton, N.J. 08628. to receive process of service. It has a Main Business Address at 707, Princeton, N.J. 08540. It has a Main and Principal Business Address as 707 State Road, Princeton, N.J. 08540. It has a New Jersey Business ID Number: 0100343035.
10. Upon information and belief, Defendant Shionogi Pharma Sales, Inc. is a corporation incorporated under the laws of Delaware and has designated Tadashi Hara to receive process of service at 100 Campus Drive, Florham Park, N.J. 07932. He also has a listed corporation address, as Secretary, at 3045 Gates Court, Morris Plains, N.J. 07950. It has a Main and Principal Business Address at 100 Campus Drive, Florham Park, N.J. 07932. It has a New Jersey Business ID Number: 0100852079.
11. Upon information and belief, Defendant Shionogi USA, Inc. is a corporation incorporated under the laws of Delaware and has designated Tadashi Hara to receive process of service at 100 Campus Drive, Florham Park, N.J. 07932. . He also has a listed corporation address, as Secretary, at 3045 Gates Court, Morris Plains, N.J. 07950. It has a Main and Principal Business Address at 100 Campus Drive, Florham Park, N.J. 07932. It has a New Jersey Business ID Number: 0100852079.
12. Upon information and belief, Defendant Mitsubishi Tanabe Pharma America, Inc. is a corporation incorporated under the laws of New York and has designated the Corporation Trust Company to receive process of service at 820 Bear Tavern Road, West Trenton, NJ 08628. It has a New Jersey Business ID Number: 0101002650. It had a previous name Mt. Pharma America, Inc.
13. Upon information and belief, Defendant Mitsubishi Tanabe Pharma Holdings America, Inc. is a corporation incorporated under the laws of Delaware and has designated the Corporation Trust Company to receive process of service at 820 Bear Tavern Road, West Trenton, N.J. 08628. It has a Main and Principal Business Address at Mitsubishi Tanabe Pharma America, 25 Independence Blvd., Warren,

N.J. 07059. It has a New Jersey Business ID Number:0100840802. It had a previous name Tanabe Holdings America, Inc.

14. Upon information and belief, Defendant Mitsubishi Tanabe Pharma Development America, Inc. is a corporation incorporated under the laws of Delaware and has designated The CT Corporation to receive process of service at 820 Bear Tavern Road, West Trenton, N.J. 08628. It has a Principal and Main Business Address at 25 Independence Blvd., Warren, N.J. 07059. It has a New Jersey Business ID Number:100864203. It had a previous name Mitsubishi Pharma America Inc..

15. Upon information and belief, Defendant Chugai Pharma USA, LLC. is a corporation incorporated under the laws of Delaware and has designated the Chugai Pharma U.S.A. LLC, c/o Finance Department, to receive process of service at 300 Connell Drive Suite 3100, Berkeley Heights, N.J. 07922. It has a Main and Principal Business Address at 300 Connell Drive Suite 3100, Berkeley Heights, N.J. 07922.. It has a New Jersey Business ID Number:0600219959.

16. Upon information and belief, Defendant Daiichi Sankyo, Inc. is a corporation incorporated under the laws of Delaware and has designated the Corporation Trust Company to receive process of service at 820 Bear Tavern Road, West Trenton, N.J. 08628. It has a Main and Principal Business Address at Two Hilton Court, Parsippany, New Jersey 017054. It has an ID Number:0100693643. It had a previous name. Daiichi Sankyo Pharma Development.

17. Upon information and belief, Defendant Shionogi USA Holdings, Inc. is a corporation incorporated under the laws of Delaware and has designated the Corporation Trust Company to receive process of service at 820 Bear Tavern Road, West Trenton, N.J. 08628. It has an ID Number:0101007764. It had a previous name. Daiichi Sankyo Pharma Development.

18. Upon information and belief, Defendant Shionogi Pharma, Inc. is a corporation incorporated under the laws of Delaware and has designated the Corporation Trust Company to receive process of service at 820 Bear Tavern Road, West Trenton, N.J. 08628. It has a Main Business Number at 5 concourse Parkway, Suite 1800. Atlanta, Ga 30328. It has an ID Number:0100942866. It had a previous name. First Horizon Pharmaceutical Corporation and Sciele Pharma, Inc..

19. Upon information and belief, "John Does" 1 through 61 are those companies who have entered into either licensing agreements or covenants "not-to-sue" with Dyax Corp. John Does have offices or places of business or transact business and enter into contracts either in New Jersey or with companies and individuals located and doing business in New Jersey.

#### JURISDICTION AND VENUE

20. This action arises under the patent laws of the United States of America and Jurisdiction is founded on Title 28, United States Code § 1331 and 1338 (a). Venue is proper in this Court under Title 28, United States Code § 1391 (c)(d)(e1) and 1400(b)

21. On August 12, 2003 the United States Patent Office issued Patent No. 6,605,448 B1 entitled Method and Means for Sorting and Identifying Biological Information to Plaintiff. This patent grants plaintiff fights to make and own intermediate and end products of libraries of displayed peptides and test species and antibodies that interact with these libraries. Plaintiff originally filed his application with the United States Patent Office on August 28, 1985.

22. This Court has jurisdiction over this action pursuant to 12 U.S.C. §1819, 18 U.S.C. §1964, and 28 U.S.C. §1349.

23. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391(b)(2) in that the claims stated herein arose in this district.

#### CLAIM

24. Pieczenik is the owner of the United States Patent No. 5,866,363 ("the '363 Patent"), which discloses and claims a method and means of identifying biological information. A copy of the '363 Patent is attached as Exhibit A.
25. Defendants AstellasPharma, Inc., Canon, U.S.A., Inc., Taiho Pharma U.S.A., Inc., Dainippon Sumitomo Pharma America Holdings, Inc., Dainippon Sumitomo Pharma America, Inc., Kyowa Hakko Kirin America, Inc., Kyowa Hakko Kirin Pharma, Inc., Shionogi Pharma Sales, Inc., Mitsubishi Tanabe Pharma America, Inc., Mitsubishi Tanabe Pharma Holdings America, Inc., Mitsubishi Tanabe Pharma Development America, Inc., Chugai Pharma USA, LLC Corporation, Diaichi Sankyo, Inc., Shionogi USA Holdings, Inc., Shionogi USA, Inc., Shionogi Pharma, Inc. and John Does 1 through 61. filed patents claiming methods, products and biological intermediates used in the display of peptide and antibody combinatorial libraries. These patents and patent applications have been filed at a later date than the original filing of the Pieczenik '363 Patent parent and therefore are subject to a 102(e) "snap back" prior art date. Because this '363 patent has issued, their patents containing claims relating to the display of combinatorial libraries are invalid.
26. Defendants AstellasPharma, Inc., Canon, U.S.A., Inc., Taiho Pharma U.S.A., Inc., Dainippon Sumitomo Pharma America Holdings, Inc., Dainippon Sumitomo Pharma America, Inc., Kyowa Hakko Kirin America, Inc., Kyowa Hakko Kirin Pharma, Inc., Shionogi Pharma Sales, Inc., Mitsubishi Tanabe Pharma America, Inc., Mitsubishi Tanabe Pharma Holdings America, Inc., Mitsubishi Tanabe Pharma Development America, Inc., Chugai Pharma USA, LLC Corporation, Diaichi Sankyo, Inc., Shionogi USA Holdings, Inc., Shionogi USA, Inc., Shionogi Pharma, Inc. and John Does 1 through 61. license rights under its patents in New Jersey and throughout the United States and the world.
27. By virtue of defendant's research, commercial and licensing activities, defendants have infringed upon plaintiff's patent and have contributed to others infringing on plaintiff's patent.
28. To the extent that the claims in defendant's patents relating to the combinatorial libraries are substantially similar to claims in plaintiff's patent, defendant's patents are invalid.

#### PRELIMINARY ALLEGATIONS

29. This action involves a nexus of infringement in New Jersey. AstellasPharma, Inc., Canon, U.S.A., Inc., Taiho Pharma U.S.A., Inc., Dainippon Sumitomo Pharma America Holdings, Inc., Dainippon Sumitomo Pharma America, Inc., Kyowa Hakko Kirin America, Inc., Kyowa Hakko Kirin Pharma, Inc., Shionogi Pharma Sales, Inc., Mitsubishi Tanabe Pharma America, Inc., Mitsubishi Tanabe Pharma Holdings America, Inc., Mitsubishi Tanabe Pharma Development America, Inc., Chugai Pharma USA, LLC Corporation, Diaichi Sankyo, Inc., Shionogi USA Holdings, Inc., Shionogi USA, Inc., Shionogi Pharma, Inc. and John Does 1 through 61 are corporations and individuals which allow for a situation where their management, scientists and sales personnel infringe on the '363 patent, create companies which infringe the '363 and collaborate with companies that infringe on the '363.
30. Upon information and belief, the defendants have a vested interest in denying Pieczenik his rightful recognition of the discovery of combinatorial libraries and his rightful share in royalties and commercial agreements.

31. Upon information and belief, defendants and/or their representatives have colluded and conspired in such a fashion as to make the defendants a Racketeering Institution and Corrupt Organization in science and this organization and its members and their associates have conspired to deny Plaintiff his rightful royalties from the Pieczenik '363 patent.

PRAYER FOR RELIEF

32. Plaintiff requests that:
- a. Judgment be entered that Defendants have infringed the '363 Patent;
  - b. A permanent injunction be issued pursuant to 35 USC 271 (e)(4)(B) restraining and enjoining said defendant, its officers, agents, attorneys and employees, and those acting in privity or concert with it, from engaging in the commercial manufacture, use, offer to sell, or sale within the United States, or importation into the United States of any products produced according to defendant's patents, or to license defendant's patents anywhere in the world.
  - c. Damages for past infringement;
  - d. For such other and further relief as the Court may deem proper under the circumstances.
33. Plaintiff demands a trial by jury.



Dated: May 3, 2010

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